

# HOUSE BILL REPORT

## SHB 1308

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### As Passed Legislature

**Title:** An act relating to reducing organ transplant benefit waiting periods based upon prior creditable coverage.

**Brief Description:** Reducing organ transplant benefit waiting periods based upon prior creditable coverage.

**Sponsors:** House Committee on Health Care & Wellness (originally sponsored by Representatives Driscoll, Hinkle, Cody, Sells, Wood, Morrell, Kelley, Clibborn, Moeller, Pedersen, Hudgins, Ormsby, Parker, Chase, Kenney, Goodman, Bailey, Simpson, Herrera and Nelson; by request of Insurance Commissioner).

#### **Brief History:**

##### **Committee Activity:**

Health Care & Wellness: 2/5/09, 2/19/09 [DPS].

##### **Floor Activity**

Passed House: 3/3/09, 97-0.

Passed Senate: 4/3/09, 46-0.

Passed Legislature.

#### **Brief Summary of Substitute Bill**

- Reduces the organ transplant waiting period by the amount of time a covered person had prior creditable coverage.
- Applies the creditable coverage standards governing pre-existing conditions waiting periods to organ transplant waiting periods.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Cody, Chair; Driscoll, Vice Chair; Ericksen, Ranking Minority Member; Bailey, Campbell, Clibborn, Green, Herrera, Hinkle, Kelley, Moeller, Morrell and Pedersen.

**Staff:** Kyle Gotchy (786-7119) and Chris Cordes (786-7103).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Background:**

A pre-existing condition exclusion is a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of enrollment for such coverage. Under state and federal law, an insurance company may impose a waiting period before a new policyholder is covered for certain pre-existing conditions. An insurance company may also impose a separate waiting period for an organ transplant.

If an employer or an individual changes health plans and the new coverage begins within 90 days, then his or her prior coverage applies toward the new plan's pre-existing condition waiting period. However, if a person needs an organ transplant, his or her previous coverage may not apply toward the separate transplant waiting period. Consequently, such a person may need to go through another full organ transplant waiting period.

**Summary of Substitute Bill:**

For any new or renewed health benefit plan, a health carrier must reduce any organ transplant benefit waiting period by the amount of time a covered person had prior creditable coverage. Consequently, if a person has less than a 90-day break in health coverage, the amount of time he or she has spent waiting for a transplant under the former health plan must carry over to the new health plan. This requirement applies to any plan issued or renewed on or after January 1, 2010.

The definition of "creditable coverage" means the same as set forth in section 2701 of the federal Health Insurance Portability and Accountability Act (HIPAA), as it exists on the bill's effective date, or on such subsequent date as may be provided by the Insurance Commissioner by rule, consistent with the purposes of the bill.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill corrects an insurance loophole in order to make sure that those in need of an organ transplant do not fall through the cracks. Under current law, if an employer changes health plans, an employee's waiting period for an organ transplant resets. Most insurers have allowed subscribers who face such a situation to proceed with transplants, but the loophole in the law is nonetheless troubling. Notably, where an insurer elects to allow a subscriber to proceed with a transplant even though the law does not create a mandate, the insurer runs the risk of catalyzing adverse selection.

This legislation does not address all of the problems in the insurance industry with regard to organ transplants. First, the Legislature should give some thought to restricting an insurer's freedom to define its respective waiting period by imposing an industry standard. Second,

the dollar limit for organ transplants should be raised because the cost of many organ transplants now exceed the amount most insurers provide. Finally, some thought should be given to changing the effective date, which is currently arranged such that many families might not see improvement until their particular contract renews 22 months from now.

(Opposed) None.

**Persons Testifying:** Representative Driscoll, prime sponsor; Sean Corry, Sprague Israel Giles, Inc.; Richard Murakami; Pam MacEwan, Group Health Cooperative; LiAnne, Royale, and Fred Watley; and Mike Kreidler, Insurance Commissioner.

**Persons Signed In To Testify But Not Testifying:** None.